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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

TOMMY CANTERBERRY,
Plaintiff,

v.

ACARA SOLUTIONS, INC., a New York
business organization; SIEMENS
MOBILITY INC., a Delaware business
organization; and DOES 1-10, inclusive,
Defendants.

Case No. (CASE NO. 2:20-CV-02361-KJM-KJN)

**JOINT STIPULATION TO MODIFY
INITIAL SCHEDULING ORDER; ORDER**

Complaint filed: October 2, 2020 (Sacramento
County Superior Court Case No.: 34-2020-002-
86414)

1 Plaintiff Tommy Canterbury (“Plaintiff”) and Defendant Siemens Mobility, Inc.
2 (“Defendant”) (collectively the “Parties”), by and through their respective counsel of record, hereby
3 agree and respectfully stipulate as follows:

4 WHEREAS, Plaintiff filed his Complaint on October 13, 2020 in Sacramento County
5 Superior Court, and Defendant timely removed this matter to this Court on November 25, 2020.

6 WHEREAS, on March 26, 2021 the Parties filed their Joint Report of their Rule 26(f)
7 Conference and Proposed Discovery Plan (Dkt. 8).

8 WHEREAS, on April 8, 2021, this Court issued its Initial Scheduling Order (Dkt. 9).

9 WHEREAS, the Parties have engaged in written discovery and have agreed to pursue
10 a private mediation in hopes to reach a resolution of this matter before engaging in further discovery
11 and litigation efforts and have appointed Mark Peters as their mediator. The Parties have reserved
12 August 15, 2022 to mediate with Mr. Peters, which is after the current deadlines to complete expert
13 disclosures, exchange rebuttal expert witnesses, and complete fact discovery under the current
14 Scheduling Order. Accordingly, the Parties hereby stipulate to modify the Scheduling Order to
15 allow them the opportunity to mediate this case and potentially reach a resolution without the need to
16 conduct further discovery and litigation efforts at this time.

17 WHEREAS, good cause exists to modify the Court’s Scheduling Order as follows:

18 The district court is given broad discretion in supervising the pretrial phase of
19 litigation. . .” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992) (citation and
20 internal quotation marks omitted). “A schedule may be modified only for good cause and with the
21 judge’s consent.” Fed. R. Civ. P. 16(b)(4); see e.g. *Spiller v. Ella Smithers Geriatric Ctr.*, 919 F.2d
22 339, 343 (5th Cir. 1990) (court impliedly granted motion to modify scheduling order by allowing
23 summary judgment motion after pretrial motion cut-off date).

24 To establish “good cause,” parties seeking modification of a scheduling order must
25 generally show that, even with the exercise of due diligence, they cannot meet the order’s timetable.
26 *Johnson, supra*, 975 F.2d at 609; see e.g., *Hood v. Hartford Life & Acc. Ins. Co.*, 567 F.Supp.2d
27 1221, 1224 (E.D. Cal. 2008) (granting request for modification that was promptly made when it
28 became apparent that compliance with the scheduling order was not possible). In determining “good

1 cause,” courts also consider the importance of the requested modification, the potential prejudice in
 2 allowing the modification, and, conversely, whether denial of the requested modification would
 3 result in prejudice. *Southwestern Bell Tel. Co. v. City of El Paso*, 346 F.3d 541, 546 (5th Cir. 2003)
 4 (involving amendment of pleadings).

5 Here, good cause exists for a modification of the Court’s Scheduling Order given the
 6 Parties’ agreement to mediate with Mark Peters on August 15, 2022. This modification to extend the
 7 deadlines in the Scheduling Order would allow the Parties the opportunity to focus their resources
 8 (both time and expense) on settlement as opposed to engaging in further discovery and motion work.
 9 Consequently, a modification of the Scheduling Order would result in a savings of judicial resources
 10 because, should the Parties’ mediation be successful, the need for any further motion work or a trial
 11 in this case would be eliminated. The Parties have not previously requested a modification to the
 12 Scheduling Order.

13 THEREFORE, upon good cause shown, the Parties stipulate to modify the
 14 Scheduling Order as follows:

15 **Current Scheduling Order Dates:**

16 May 27, 2022 – Fact Discovery Cutoff

17 June 24, 2022 – Expert Discovery Cutoff

18 April 29, 2022 – Last Day to complete expert disclosures

19 May 27, 2022 – Last Day to exchange rebuttal expert witnesses

20 August 5, 2022 – Last Day to hear dispositive motions

21 **Proposed New Dates:**

22 October 27, 2022 – Fact Discovery Cutoff

23 December 1, 2022– Expert Discovery Cutoff

24 September 29, 2022– Last Day to complete expert disclosures

25 October 27, 2022– Last Day to exchange rebuttal expert witnesses

26 January 20, 2023 – Last Day to hear dispositive motions
 27
 28

1 IT IS SO STIPULATED.

2
3 Dated: April 25, 2022

Respectfully submitted,

4
5 /s/ CRYSTAL F. MOHSIN
6 RONALD L. ZAMBRANO
7 CRYSTAL F. MOHSIN
8 WEST COAST EMPLOYMENT LAWYERS, APLC
9 ATTORNEYS FOR PLAINTIFF
10 TOMMY CANTERBERRY
11

12 Dated: April 25, 2022

Respectfully submitted,

14
15 /s/ YESENIA GARCIA PEREZ
16 GREGORY G. ISKANDER
17 YESENIA GARCIA PEREZ
18 LITTLER MENDELSON, P.C.
19 ATTORNEYS FOR DEFENDANT
20 SIEMENS MOBILITY INC.
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ORDER

Upon good cause shown, the court orders the Scheduling Order to me modified as follows:

October 27, 2022 – Fact Discovery Cutoff.

December 1, 2022– Expert Discovery Cutoff.

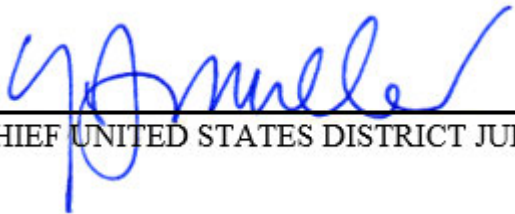
September 29, 2022– Last Day to complete expert disclosures.

October 27, 2022– Last Day to exchange rebuttal expert witnesses.

January 27, 2023 – Last Day to hear dispositive motions.

IT IS SO ORDERED.

DATED: May 4, 2022.



CHIEF UNITED STATES DISTRICT JUDGE